

Appl. No. 09/771,363
Amdt. Dated 03/25/2005
Reply to Final Office Action of January 25, 2005

REMARKS/ARGUMENTS

This Amendment is in response to the Office Action mailed January 25, 2005. In the Office Action, claims 4-14, 16, 18-22, 24, 26, 28, and 30-33 were rejected under 35 U.S.C. §103(a) as being unpatentable over Son (US Patent No. 6,229,895 B1) in view of Wasilewski (US Application No. 20040003008A1). Applicant respectfully traverses the rejection because a *prima facie* case of obviousness has not been established.

Herein, claim 4 has been amended to correct a typographical error. As set forth in independent claim 10, 21 and 32, the re-scrambled control word is inserted into the entitlement control message.

As the Examiner is aware, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify a reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all of the claim limitations. See MPEP §2143; see also *In Re Fine*, 873 F. 2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). Herein, at a minimum, the combined teachings of the cited references do not describe or suggest all the claim limitations set forth in independent claims 4, 10, 21 and 32.

In particular, on Page 3 of the Office Action, it is alleged that column 3, line 49 through column 4, line 10 of Son discloses a system that "descrambles the content in the program data...then re-scrambles the code word with a local key." Applicant respectfully disagrees. Son describes a simple decryption-encryption scheme where a remote server (404) decrypts the video program from the first encrypted form. After the video program is decrypted, the remote server (404) re-encrypts (512) the video program into a second encrypted form using a second key. Such teachings are directed to the decryption and re-encryption of the video program (i.e., content), and not the deriving or descrambling and subsequent re-scrambling of the control word (or parameters used to derive the control word) as claimed. *Emphasis added.*

Moreover, the Office Action states that Son does not disclose "how the code word is inserted into the program data..." See Page 3 of the Office Action. Moreover, the Office Action states that "Wasilewski discloses the key being contained in the EMM and therefore inserted into the EMM." See Pages 3-4 of the Office Action. Based on this interpretation, the Examiner inferentially agrees that inserting the re-scrambled code word into the *entitlement control message* is neither taught nor suggested by Son and Wasilewski, which is explicitly set forth in claims 10, 21 and 32 and corrected in claim 4.

As a result, neither Son nor Wasilewski, alone or in combination, suggest the above-described limitations, and thus, a *prima facie* case of obviousness has not been established. Hence, Applicant respectfully requests the Examiner to withdraw the outstanding §103(a) rejection and issue a Notice of Allowance.

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Conclusion

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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Dated: 03/25/2005

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Susan McFarlane

03/25/2005

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